

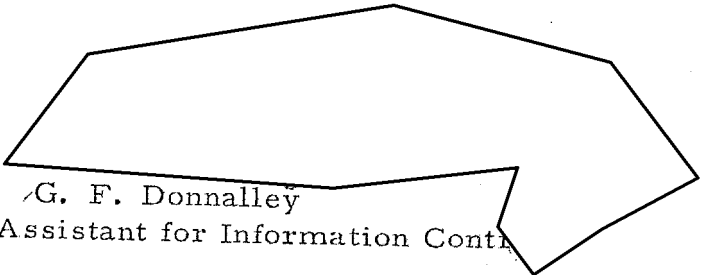
8 February 1973

MEMORANDUM FOR: Records Management Officers  
SUBJECT: Classified Papers

Attached is a copy of the speech given by Mr. Richard C. Tufaro, Staff Assistant to the ICRC, at the Information and Records Administrators Conference, 15 December 1972.

This is forwarded for your information so you can get some flavor of the way the National Security Council staff looks at the Executive Order.

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G. F. Donnalley  
Special Assistant for Information Control

Attachment

Information and Records Administrators Conference  
December 15, 1972

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CLASSIFIED PAPERS

Thank you, Marvin Kincaid, very much for your kind introduction.

Ambassador Eisenhower has asked me to express on his behalf his regrets for not being able to appear in person and his warm thanks for the work you have already done and which he knows you will continue to do in helping to deal with the problem of classified documents.

I recently stumbled across a humorous quip from Paul Louis Courier reflecting upon "printed matter." It seemed pertinent to the feeling of many with regard to the volume of classified paper generated by the Government. Let me read it to you:

"All printed matter contains poison, more or less diluted according to the size of the work, more or less harmful, more or less deadly . . . . One grain in a vat has no effect at all, in a teacup it causes vomiting, in a spoonful it kills - and there you have the pamphlet."

Well, if this is the effect of one pamphlet you can imagine the consequences of 30 million classified documents which are produced every year by this Government. Mr. Courier would probably call it a nuclear holocaust.

I can't agree with Mr. Courier's judgment on the consequences of printed matter, but there were unquestionably serious deficiencies in our handling of classified documents which led President Nixon to sign Executive Order 11652 in March of this year. As you all know, the Order has two primary objectives: (1) To reduce the amount of material being classified and safeguard it better; and (2) To declassify material earlier and on the basis of automatic schedules.

Delivering a talk so close to the Christmas holidays, I couldn't resist the urge to try and draw a parallel between this talk and Dickens' Christmas Carol. Accordingly, I would like to talk to you today about

Classification Past, Classification Present and Classification Future. Turning first to Classification Past, let me review the progress which has been achieved since the Executive Order became effective in June.

First, the Interagency Classification Review Committee has become active in pursuing the objectives of the Executive Order. Ambassador John Eisenhower was named by the President as Chairman. Ambassador Eisenhower has wide experience in military and diplomatic fields and an additional perspective which he obtained when his father served as President of the United States for two terms. The Departments of State, Defense, Justice, and the Central Intelligence Agency each have senior representatives serving on the Committee who attend the regular monthly meetings to reflect the views of their departments and the development of an overall Government policy. In addition the Archivist of the United States has been asked to serve as a member of the Committee and has been attending our regular meetings. Second, there have been specific achievements which are worthy of note:

1. There has been a 60% reduction in all authorized classifiers.
2. There has been a 63% reduction in authorized Top Secret classifiers who are also the only individuals authorized to exempt from the automatic declassification schedules.
3. Current lists of authorized classifiers by name and position are maintained by all the departments and submitted to the Interagency Committee on a quarterly basis.
4. Most documents now reflect the required marking requirements.
5. Of 34 departments affected by the Order, the Interagency Committee has reviewed and approved the implementing regulations of 31.
6. All but three of the departments whose regulations have been approved have published appropriate portions in the Federal Register.

7. A series of five Quarterly Reports with forms and instructions have been prepared to assist the Interagency Committee in monitoring the classification program.
8. Detailed instructions have been developed to guide the departments on implementing the data index requirements of the NSC Directive.
9. 177 declassification requests were received from June 1 to October 1. 83 were granted in full; 4 in part. 52 were denied in full and 38 were pending at the time of the report.

Let me turn now to Classification Present. In doing so I would like to focus upon the responsibility of the individual Departments and upon the specific role of records managers in the classification area. Let me begin with several very general observations.

First it is my impression that there has been an unfortunate tendency to separate records management problems from security classification problems. I should just like to see if this observation is borne out by asking you to show by raising your hands how many of you have Top Secret clearances. It appears from the show of hands that it is only about 50%. Clearly unless you have access to the documents you cannot control them.

This segregation of functions between records managers and security officers has in my view been an unhealthy one. Classified documents are nothing more than Government papers which require complicated special handling. Of course, there are many other examples of Government documents not classified which also require forms of special handling.

It is the intention of the Interagency Committee to propose procedures for dealing with classified documents which put records managers back into the security business insofar as we are concerned with the creation, disposition and public access to classified documents.

My second observation regarding records management and the handling of classified documents is that many of the methods used are extremely primitive. Records disposition and retention schedules have not generally been applied to classified documents. Efficient review and accountability procedures have not been established in many Departments. Automated methods for retrieving, reproducing and

accounting for classified documents have not been utilized where it is appropriate. This is unfortunate and the Interagency Committee would like to use its resources to encourage updating of such procedures.

I want to emphasize that the Interagency Committee is not asking that the Departments call upon the expertise of records managers and ignoring the necessity for having such advice itself. In fact, Ambassador Eisenhower has requested the advisory services of the National Archives and Records Service in developing appropriate management reporting systems, uniform standard and optional forms and a handbook of procedures for records managers. The results of some of this work will become evident shortly in the Quarterly Reports which I previously mentioned which will be promulgated by the Interagency Committee as well as the instructions on the data index requirement.

Finally, let me turn to Classification Future. I would like to describe for you some particular areas that the Interagency Committee expects to focus on in the year ahead.

Our Committee cannot be expected to do the job of inspection review on classification which is the responsibility of each Department. We expect to ask and take the following steps to bring you the record managers back into the job of dealing with classified documents:

1. We shall ask all Departments to submit an annual or semi-annual work plan whereby records managers shall inspect and review classified documents to determine instances of classification abuse, take appropriate downgrading or declassification action, and destroy classified records no longer required and having no retention value. We anticipate that the work plan will consist of specific steps for inspecting classified documents originated by a Department. This may include a rotation schedule for inspection of particular offices, an indication of the number of individuals involved, and other matters which would be pertinent.
2. We shall ask the records managers to develop sound procedures for facilitating automatic downgrading and declassification of classified documents. One of the primary objectives of Executive Order 11652 is to reduce Government costs associated with protection and review of classified records. It is up to you as individuals to develop and recommend simple

procedures for locating those documents which may be automatically downgraded or declassified. We would like to have any suggestions you have which would help to achieve this goal. You are the experts in your Departments and for us and can provide tremendous assistance if you want to focus on the problem. At one meeting, I suggested using color-coated covers which would correspond with the declassification year. This is a possible idea; I am sure there are others and that you as the experts would know them better than I.

3. One of the fundamental principles of Executive Order 11652 is its recognition that new approaches must be adopted to ensure that documents previously withheld from the public are organized, indexed and made physically available once there is no longer any need for protection. Many of you may be aware that the National Security Council Directive implementing the President's new Executive Order requires that every Department authorized to originate classified documents shall establish a data index system. I earlier described to you the work of our Committee in developing detailed instructions for satisfying this requirement. The Interagency Committee considers that this is one approach which furthers the requirement of the Executive Order to increase public access to classified documents. We are very much satisfied with the progress which has been achieved in implementing the data index system. But I am sure there are other approaches. We are counting on you the records managers to draw on your experience to suggest additional alternatives which may improve on or otherwise increase public access.

These are three specific areas the Interagency Committee will focus on in the year ahead. I am sure there will be others because we have an active, interested group working to see that the Executive Order is a success.

I should like to make one concluding observation. There has been significant progress since the Executive Order became effective in June and the progress has been particularly noteworthy in a few Departments. On the whole, however, I have been personally disappointed by the lack of initiative and imagination in many Departments in carrying out implementation of the letter and spirit of the Order.

In some Departments there has been two little follow-through to ensure that the Order works. We would like to see this change in the year ahead.

I believe the Executive Order establishes a sound framework for dealing with the problem of documents which require protection in the national security interest. I believe with your cooperation it can and will work. If we are to avoid having classified printed material become the poison that Mr. Courier suggests is true of printed matter, we must work hard to see that the security classification program is fully carried out.

Thank you very much.

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## Information and Records Administration Conference

### IMPLEMENTING EXECUTIVE ORDER 11652 (Classification and Declassification of National Security Information Material)

#### *Speakers*



#### "NATIONAL POLICIES AND OBJECTIVES"

**RICHARD C. TUFARO**

Staff Assistant To The Chairman,  
Interagency Classification Review Committee



#### "DOD IMPLEMENTATION"

**C. DONALD GARRETT**

Chief, Information Security Requirements,  
Office of the Secretary of Defense

#### MODERATOR:

**W. Marvin Kincaid**  
Department of the Navy

#### Records Management Officers Panel

GAIL F. DONNALLY, CIA      SEYMOUR J. POMRENZE, Dept. of the Army  
JOSEPH F. GORMAN, AEC      DONALD J. SIMON, Dept. of State



**FRIDAY, DECEMBER 15, 1972, 10 A.M.— ARCHIVES THEATER**



Richard C. Tufaro  
Interagency Classification Review Committee

CLASSIFIED PAPERS

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C. Donald Garrett  
Department of Defense

# INFORMATION SECURITY PROGRAM UNDER EXECUTIVE ORDER 11652

The Executive Order under which we are now operating is Executive Order 11652 issued on March 8, 1972, entitled "Classification and Declassification of National Security Information and Material." Supplementing that is a National Security Council Directive issued on May 17 entitled "Directive Governing the Classification, Downgrading, Declassification and Safeguarding of National Security Information." From these two there was developed and issued on June 1, 1972 a provisional DOD Directive 5200.1 which establishes the basic responsibilities and authorities for the administration of the Information Security Program in the Department of Defense. The Assistant Secretary of Defense (Comptroller), Mr. Robert C. Moot, has been designated as the senior official responsible for effective compliance with the Executive Order and the NSC Directive. To implement the E.O. and NSC Directive, Secretary Moot approved on July 15, 1972 the DOD Information Security Program Regulation, DOD 5200.1-R, which provides full details on the operation of the Program.

The philosophy behind the new program is exemplified in the beginning of the Executive Order -- to make available to the citizens of the United States as much information as possible consistent with the interests of national security so that they can be readily informed concerning the operations of the Department of Defense and of the Government. The President has pointed out, however, that there is a quantity of information which requires protection in the interests of national security. The DOD Information Security Program is established to meet these requirements.

## Classification Policies

With the signing of Executive Order 11652, the President issued a statement in which he set the tone for the new Program. The theme of the new program is to classify less, declassify sooner and protect better that which truly needs protection.

The basic policy of E.O. 11652, is to classify only to protect the interests of national defense and the foreign relations of the United States, which are combined and termed "National Security." An important new policy is stated: Whenever there is a doubt as to the proper level of classification or whether classification is necessary at all, the less restrictive action is to be taken. There is a companion policy that is always good: "When in doubt -- find out." Get from all sources the best possible advice and assistance and then make a sound, reasoned judgment, using the less restrictive action when you still have a question.

There are a number of "don'ts" found in E.O. 11652: Do not overclassify or underclassify. Do not classify to conceal error or administrative inefficiency. Do not classify to prevent personal or official embarrassment.

And, do not classify to restrain competition, because of personal prestige or interservice rivalry, or to stifle independent initiative. These "do's" and "don'ts" are very important with the emphasis on classifying less, declassifying sooner and protecting better that which is kept classified.

When determining whether information is to be classified, it is absolutely essential that we consider not only the reasons for classification but whether there are some good solid reasons for not classifying. For example, if you know that dissemination of particular information is going to be very widespread, there would be a question as to whether a document should be classified Top Secret. You would consider what would happen to it -- is it possible to protect it? There are many circumstances, particularly in the development of weapon systems, where information can be used to good advantage in the private sector. It is important to consider whether or not the values to be obtained by the DOD by continued classification. We also have to consider the effect on mission, or on operations resulting from classification, and to consider all of the factors together.

#### Classification Authorities

The authority to classify has been considerably reduced. Under E.O. 11652 there are only 4 officials in the Department of Defense who can designate other to exercise Top Secret classification authority. They are the four Secretaries, the Secretary of Defense and the Service Secretaries. They can designate certain of their senior principal deputies and assistants and the heads of major elements of the Department of Defense and certain of the senior principal deputies and assistants to the heads of those major elements. On May 31 after canvassing all of the DOD components, Secretary Rush issued a list of 592 officials in the Department of Defense who have Top Secret classification authority. A few have been added to meet specific operational requirements.

For Secret classification authority all those who have Top Secret classification authority can classify at the Secret level and at the Confidential level. Certain of them, the designated senior principal deputies and assistants to the Secretaries, can also designate certain of their subordinates to exercise Secret classification authority.

Confidential classification authority can be exercised by any of the designated Top Secret or Secret classification authorities, or by certain subordinates designated by them.

Many classification determinations will not be based upon an original determination but instead, will be based upon source material or classification guidance. In that case, it is necessary for everybody who works with classified information to pay attention to the classification determinations made by the authority who originally determined it in the form of a source document of some kind or in the form of a classification guide. These classifications are to be followed unless it is

felt that they are not correct in which case it is necessary to go back to the original classifier to obtain a review and a change if it is appropriate.

Later on when we talk about the particular stamps that are going to be used, there is a line which shows the authority for classification. Whenever possible the original classifier will be indicated on the "classified by" line by title or position, so that we can go back to him and find out the reason why he classified if it is appropriate or to request that he reconsider his classification determination. If the original classifier cannot be determined, the classifier of the source material or a complete identification of the source material itself should be stated. If there are a number of controlling sources or guides it would then be appropriate to show the signer or final approver, remembering that whoever signs or finally approves a document or record or other material is responsible for its content, for the classifications assigned within that document and for the downgrading and declassification determinations.

The main idea is to maintain records from which anyone can determine the classification responsibilities going back if necessary to an original classifier. The party who prepares a document must keep whatever records he needs to show who classified what and on a rapid response basis. This is extremely important and requires particular consideration when there are many items of information classified at varying levels and based upon several different sources of classification determination.

#### Classification Standard and Categories

The classification standard established by Executive Order 11652 prescribes that official information shall be classified when unauthorized disclosure could be reasonably expected to cause a degree of harm to the national defense or foreign relations of the United States, collectively termed national security. This is the only standard for classification. It applies to the three classifications which are the same as we have had, Top Secret, Secret and Confidential. Top Secret would be assigned to information the unauthorized disclosure of which could reasonably be expected to cause exceptionally grave damage to national security. This slide shows some examples of the types of information which would qualify for Top Secret classification. You will note that the President has said that the classification of Top Secret shall be used with utmost restraint.

Secret would be applied to official information the unauthorized disclosure of which could reasonably be expected to cause serious damage to national security. This slide shows examples of information which would qualify for Secret classification. The President has said the Secret classification will be used sparingly. As an example of the distinction that is to be made between Top Secret and Secret, Top Secret could apply to intelligence information leading to an enemy attack, while Secret could apply to intelligence information on vital military actions in progress. Top

Secret is to be reserved for use in matters of extreme importance to national security. Secret would be used for matters vital to national security. The Confidential classification would be applied to any information the unauthorized disclosure of which could reasonably be expected to cause some degree of damage to national security but less than Secret.

#### Downgrading and Declassification

With each classification determination, the classifier is required to make a downgrading and declassification determination. Any higher authority in the chain of command can also make a downgrading and declassification determination. Additionally, there will be certain designated officials within the military departments and DOD components who will be given authority to consider downgrading and declassification to specific bodies of information.

The first consideration is to establish dates or events on which downgrading or declassification will be automatically effected. These dates and events must occur sooner than the time periods of the General Declassification Schedule. If you cannot establish a date or event for downgrading and declassification, the next step then is the General Declassification Schedule which establishes a particular schedule for downgrading and declassification. Under the General Declassification Schedule, Top Secret goes to Secret in two years, to Confidential in two more years. Eight years for Secret and six years for Confidential. This is considerably shorter than the former Group-4 material which was three-three-six years, or the Group-3 material which was twelve-twelve-zero. Most of the material that we classify now should fall within either the date or event class or under the General Declassification Schedule.

If we cannot establish a date or the GDS, it is then possible to exempt the material from the General Declassification Schedule. There are four categories of information which can be exempt. Foreign origin information over which we do not have classification control would be exempt. Certain information which is exempt or covered by statute, for example, Restricted Data and Formerly Restricted Data, are exempt from the General Declassification Schedule. There are certain bodies of information like cryptography, communications security, intelligence sources and methods, which require indefinite classification and a specific determination on downgrading and declassification. That type of information can be exempted. The third category is a little bit broader but it is to be used much more sparingly than we have used Group-3 in the past. It would apply to any system, plan, installation, project or specific foreign relations matter when it is determined that continued classification is essential in the interests of national security. The fourth category is a rather rare one and would pertain mainly to intelligence records which would identify a person who, if his identity were disclosed, may be placed in personal jeopardy.



The determination to put information in the exempt category can be made only by a Top Secret classification authority. This applies to all levels of classification, Top Secret, Secret and Confidential. When you are preparing material and your classification determinations are based on a source document or on a classification guide, you take from that source material or from that guide the exemption category which is stated. If there are differences in the exemption category which you obtain from source material or from a classification guide, in the material that you are currently preparing you would show each of the appropriate exemption or exemptions, or show the most restrictive one. There is one exception -- if you are dealing with material that warrants the designation of Restricted Data or Formerly Restricted Data -- that is the only designation that you have to put on it, you do not have to show the exemption, although a "Classified by" line should be added.

### Classification Markings

There are some new marking requirements. The first stamp some of you may recognize as being the optional Group-4 stamp. It is used when you decide that there is a particular date or series of dates or events on which downgrading and declassification can occur. The second stamp is used when the General Declassification Schedule is appropriate and in that case you would show in the last line the year on which declassification is appropriate, that would be ten, eight or six years in the future, depending upon the classification level. And the last one is the exemption stamp that you would use.

Now you will note, in each one of these instances, that there is a line which says "Classified by" on each one. On that line you will enter the identification of the original classifier if he is known, or you will identify the source material by designation of the document or by designation of the classification guide. The important thing is that anybody who picks up this material must have a base upon which to go back and to identify the official who can give them a fast answer on downgrading and declassification of a particular document. Now if any of these are not applicable, then the signer or final approver of the document should be shown on the "Classified by" line. This would apply in cases where there are many sources of classification used in a document being prepared.

There are also some additional markings which are considerably different. You will note that the Restricted Data/Formerly Restricted Data notations are shorter than those we have been using but they say essentially the same thing. The national security information notation is considerably shorter than the espionage stamp that we were using. It will be used on all documentation for which Restricted Data or Formerly Restricted Data is not applicable whenever the document leaves the Executive Branch. Finally, there is another notation prescribed by the National Security Council Directive for sensitive intelligence information. If applicable, the sensitive intelligence notice will be shown in conjunction with one of the other notations.

What do we do about information that we now have which is marked Group-1, 2, 3 or 4 under the E.O. 10501 system? If the material on hand is marked Group-4, it becomes automatically subject to the General Declassification Schedule. This means that any Confidential document that you have in hand today that is marked Group-4 and is over six years old will be declassified at the end of this year. Any Secret document more than two years old will be downgraded to Confidential at the end of this year and will be declassified at the end of this year if it is eight years old, and so on. The only way that this can be stopped is for an original Top Secret classifier, having proper jurisdiction over classification of the information, to make a determination that the information in that document warrants exemption and to notify all holders before the scheduled date for downgrading or declassification under the GDS.

Former Group-1, 2 and 3 material is excluded from the General Declassification Schedule, for the time being. Sooner or later, all of this documentation will have to be reviewed and a determination made as to whether it falls under the General Declassification Schedule or whether an exemption is appropriate. It will then have to be redesignated and remarked accordingly. That does not have to be done on a current basis but whenever the material is brought to light for any kind of use.

There are many cases in which new material is being prepared and classification, downgrading and declassification are based upon a source document or documents or a classification guide which are stated in E.O. 10501 terms. In such cases, if the source material or guide called for Group-4, the newly prepared material would be marked with the GDS stamp, using the date of preparation of the new material as the date of origination unless an earlier date is stated. If the source material or guide calls for Group-1, 2 or 3, if possible, the original classifier should be requested to provide a determination based on E.O. 11652. If that cannot be done, then the new material will be marked "Excluded from GDS" and, in addition, the former Group marking will be stated and a reference made to the controlling source material. Later on, more detailed instructions on treatment of Group-1, 2 and 3 material will be provided.

#### Classification Reviews

Now, we come to the reviews specified in Executive Order 11652. If any person makes a request for a document or a record and that document or record is more than ten years old, and it can be identified and located with a reasonable amount of effort, it is mandatory that the controlling agency make a current review of that document or record to determine what its current classification status should be. If it is declassified, then it would be considered for release unless it is subject to exemption under the Freedom of Information Act. If it is not to be declassified, that is if an exemption is appropriate, or if it cannot be declassified for a particular period of time, then it would be remarked accordingly and action taken in that respect. It would not

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be made available to the general public if it remains classified, of course. This would apply to anything which is more than ten years old as of today.

There is another review prescribed by the Executive Order on material which is thirty years old. If the material is created after June 1, 1972, the material is automatically declassified after 30 years unless the head of the agency personally determines that continued classification is essential to national security or a person would be placed in jeopardy. Material which was created before June 1, 1972 and is now 30 years old is to be reviewed by the National Archivist with the assistance of the responsible agencies to determine whether or not it can be declassified or whether or not classification should continue for a particular period. If classification is to continue beyond the thirty year period, it requires personal action by the head of the agency, in this case, the Secretary of Defense. We are currently assisting the National Archivist in reviewing World War II records. The Archivist estimates that there are approximately 160 million pages to review. Much of this material has already been downgraded and declassified by the Department of Defense under our mass declassification action which began in 1958, but it is necessary to review some of the information which was, at that time, exempted from downgrading and declassification.

#### DOD Committee and Board

To assist the designated senior official of each department in carrying out his responsibilities for the administration of an effective program, a Classification Review Committee is prescribed by the President. Mr. Robert C. Moot, the Assistant Secretary, Comptroller, chairs the DOD committee. The members are the Assistant Secretary for Public Affairs, Mr. Daniel Z. Henkin; and the General Counsel, Mr. J. Fred Buzhardt. This Committee will consider suggestions and complaints from any source concerning the administration of the program throughout the Department of Defense. It will also consider appeals of denials of requests under the Freedom of Information Act in cases wherein the Department of Defense has considered that there should be no release because of the need for continued classification. This Committee will not consider appeals on requests where the denial was based on one of the other exemptions of the Freedom of Information Act. It will also consider appeals of actions by the Classification Review Committees of the military departments, when they denied a request for a particular record on classification grounds. They will also consider and make recommendations to the Secretary of Defense on any abuses and violations of the administration of the Order which are brought to light, or which are reported to the Committee.

In addition to this Committee, there has been established a Department of Defense Information Security Advisory Board to assist the Assistant Secretary in the administration of the program. Mr. Joseph J. Liebling, Deputy Assistant Secretary for Security Policy, chairs this Board. It is composed of senior officials of the Army, Navy, Air Force, Joint Chiefs of Staff, DDR&E, Assistant Secretaries for Intelligence and

Public Affairs, the General Counsel and the Defense Supply Agency because of the latter's interest in industrial security matters. This Board will advise and assist the Assistant Secretary in the development of policies, procedures, standards and criteria for the betterment of the program, and will generally evaluate the effectiveness of the program through whatever means are appropriate.

#### Monitorship

We will make greater use of existing inspection processes and resources of the military departments and other DOD components including the Office of Industrial Security in the Defense Supply Agency. We will expect these inspection resources to supply us with information on the administration of the program. Inspection teams will be going out to gather information on certain operational phases of the program; certain reports will be obtained. DOD, in turn, is required to prepare and submit on a quarterly basis, reports to the Interagency Classification Review Committee in the National Security Council on the operations of the program.

The Interagency Classification Review Committee was established by the President and is chaired by Ambassador John S. D. Eisenhower. It is formed of representatives of the Departments of State, Defense, Justice, the Atomic Energy Commission, the Central Intelligence Agency and the National Security Council. The DOD representative is our General Counsel, Mr. J. Fred Buzhardt. This Committee will consider suggestions and complaints concerning the administration of the program throughout the Executive Branch. It will also consider appeals of denials of releases of information. It will consider and develop means for improving the program, preventing overclassification, assuring proper classification, prompt declassification, facilitating the release of information to the general public, and so forth.

#### Special Access Programs

Another important provision of the DOD Regulation concerns Special Access Programs. The National Security Council Directive indicated that there should be a minimum of cases in which special access requirements are imposed, with the exception of certain information such as sensitive intelligence, communications security, and the like. Current programs will be reviewed to determine whether or not they should be continued as special access programs. Any program in the future will have to be reported, properly substantiated and approved before any special access requirements are imposed. By special access requirements we mean additional security clearances, special access lists, or special procedures for the dissemination of information. Finally, renewed emphasis is being placed on the control of classified information, on the need-to-know principle. No classified information is to be released to anyone unless they need it in the course of their official business.

On the whole, E.O. 11652 begins a new era. The emphasis is on accurate classifications, limited in duration and proper protection where and when it is needed. Closer watch will be undertaken to ensure that the provisions of the Order and the NSC Directive are efficiently and effectively applied.

Mr. Kincaid:

We've referred to our panel of records management officers. We're going to move these tables this direction now and ask the panel members if they will please come to the rostrum. While they are doing that, I want to give you about four reasons why I asked these gentlemen to serve as our panel.

1. I wanted to make sure they would be here.
2. I thought that they might also ensure that some of their people might be here.
3. I didn't want to be the oldest member on this platform this morning.
4. Our two speakers kindly consented to respond to your questions. However, since they both were primarily in the security policy and program area, I thought it was only fair to them that we provide them some support by this panel of records managers.

So all six of these gentlemen will answer as many of your questions as we have time for. I am going to ask the panel members of the records managers if they would start by asking a question of the speakers. Then the speakers can ask some questions of these records managers if they so desire. By that time maybe we will have some questions from you, and we'll answer those as time permits.

Beginning on your right we have Mr. Gail Donnally of CIA; Mr. Joe Gorman of AEC; Mr. Don Simon of the Department of State and Mr. Joe Pomrenze of the Army, who is well known around Washington for teaching records management courses in American University.

These gentlemen were selected because they are from some of the agencies which have the greatest involvement in the security management problem. Mr. Donnally, do you have a question you would like to ask one of the speakers?

Mr. Donnally:

I'll address my question to Mr. Tufaro if I may. To date we are finding the implementation of the Executive Order is putting quite a strain on our financial resources. Is there any plan for separate budgeting for that? And any assurance that we'll get money for it?

Mr. Tufaro:

The Executive Order and the Directive both cause some budget problems in the departments. Now in cases where there are special needs we are trying to assist the departments when they present their budgetary problems to the Office of Management and Budget, but there will not be a separate budget request. We do expect to focus and try to collect

some information on what it's costing so that we, at our level, can be more knowledgeable about it, but otherwise the requests will go through the regular departmental channels.

Mr. Kincaid:

Joe Gorman, from AEC, do you have a question?

Mr. Gorman:

Yes, for Mr. Tufaro. It has to do with the data index system. Right now the index system is applicable only to classified records, but under the Freedom of Information Act there are many records that could be useful and could be asked for by the public. Is there any possibility, national policy wise, of extending the index to unclassified records?

Mr. Tufaro:

There is not at this time. The Interagency Committee has no authority to act outside of the area of exemption, one which is solely classified documents. As far as I know, although some people may be thinking about it at the policy level, there is no specific policy being developed in that area, although I think it wouldn't be a bad idea.

Mr. Kincaid:

Don Simon from the Department of State.

Mr. Simon:

I'd like to give Mr. Garrett an opportunity. I wonder if the Department of Defense has had any conflict between the Freedom of Information Act and the Executive Order in that the Order states that records are to be reviewed after ten years, mandatory review, and the Freedom of Information Act says there are no time limits. We, in the State Department, have had some requests where they don't mention on what authority they want it, and we've had a very liberal policy of trying to handle it regardless of what its asked under what Act.

Mr. Garrett:

I think the only comment I can make that is pertinent is that Mr. Bossard, our General Counsel, in testifying before Congressman Moorhead's committee last pring said that if we receive a request for a particular record and the requester does not specifically mention the Freedom of Information Act, we would consider it as falling within the Freedom of Information Act and would act on it accordingly. I don't believe that we have any conflict, if you permit the word again, between the Executive Order and the FOI; however, I do believe that, and I think Dick would bear me out on this, if we do receive a request under the Freedom of Information Act, no matter how old the document is and it is classified, sooner or later if the requester presses his appeal, particularly in court, we're

going to have to make a classification review of it, and we're going to have to come up with a defensible reason for continuing the classification. So I would venture to say that as any classified record for which a request is made under the Freedom of Information Act we would probably have to sometime, not initially, but sometime we have to make a current classification review. Of course, if it is ten years old we must under the Executive Order.

Mr. Pomrenze:

Dick, you started out by talking about various methods of access to records and you mention the index. Would you care to comment about the provision and the Executive Order on unofficial access by researchers which really has proven to be an excellent way of granting access to the world of scholarship to classified information for a long time, started by President Eisenhower?

Mr. Tufaro:

Yes, the Executive Order makes the provision for historians and others who have held policy positions to have access to classified records. Those who have continued to be classified now must go through a regular security clearance. The project must be approved by the Department and they must agree to protect classified material, to have their records reviewed, to have any classified portions removed from their notes. It does provide an effective tool. We are trying to explore developing at least uniform forms that can be distributed through the departments so that the individuals throughout the public, regardless of where they are applying to see classified records, can fill out a standard form. The clearance procedure is decentralized and it remains in the hands of the departments because some departments have more sensitive classified records than others. I think it offers a tremendous tool for the historian who knows specifically what he is looking for and can define his project in our terms.

Mr. Kincaid:

Thank you. I have, I believe, an even dozen of cards or notes here, some of which have questions of more than one part. Let's take those and I'll take those first which have been directed to a particular individual. I realize that you wrote these notes under very inappropriate and uncomfortable circumstances. I hope you will be patient with me if I do have any difficulty in reading what you wrote.

This question is addressed to Mr. Garrett. Approximately what percentage of classified information originated since June 1972 is being exempted from the General Declassification Schedule?

Mr. Garrett:

We have no figures at all that I could give you to indicate the percentages. We just don't have any figures whatsoever. Mr. Tufaro mentioned a figure something like 36 million documents created a year. I think that is



a very, very conservative estimate. I remember a contractor security officer telling me not to many months ago, that in the Safeguard System alone they create about 64 million computer pages a month. Now all of those pages do not go into the Archives (very few of them as a matter of fact), but I think it is a startling figure. Some of those pages do, but, of course, this is an awful lot of paper. These are classified documents and they are retained only for a short period of time, but we have many, many millions of documents created daily throughout the world by various elements of the Department of Defense. We don't have any means at the present time of getting statistical data showing what quantity is classified at what level or whether it is ADS, GDS or XGDS. We just don't have any figures at all.

Mr. Kincaid:

This question is addressed to Mr. Tufaro. If a request for an identifiable document pertaining to national security or foreign affairs is requested under the provisions of the Freedom of Information Act and less than ten years old, can the ten year provision of Executive Order 11652 be used to deny release as a premature request?

Mr. Tufaro:

That's really the question that was asked by Don Simon of Mr. Garrett. Under the provisions of the Executive Order there is no requirement to review a document that is classified in less than ten years old. Now I think that the issue will very shortly be resolved whether that will stand up. The Supreme Court presently has a case for it which involves this very issue and so it would be inappropriate for me to try and guess what their decision will be.

Mr. Kincaid:

Can you name the case?

Mr. Tufaro:

Yes, it's the Environmental Protection Agency versus Patsy Mink, the Congressman from Hawaii.

Mr. Kincaid:

Yes Joe.

Mr. Pomrenze:

We in Army will except any request for any document. We will not turn it down simply because the classified document is ten years old and use that as a basis for not reviewing the document. If we do not release it, we will not release it because there is a valid basis for not declassifying the document.

Mr. Kincaid:

This question is addressed to Mr. Garrett or Mr. Pomrenze. What is the OSD policy on the declassification of material originated by Foreign Governments? DOD Regulation 5200.1-R states that such material remains classified until instructions are received from the originator. Is foreign-originated material subject to the 30 year provisions of EO 11652? Is such material subject, in fact, to any provisions of EO 11652 or subject only to originator's orders?

Mr. Garrett:

I think we have to say we must abide by the classification assigned by the foreign originator. If we received a document it is received under an agreement we have with the Foreign Government, NATO, Germany or France, name it, where we have agreed between us that we will protect the information at the level of classification assigned by the originator. I do believe we just don't have classification jurisdiction over such documentation.

Mr. Pomrenze:

There are really two parts to it. Don has touched on one. There are documents which were originated by Foreign Governments and then there is a tremendous quantity of documents that were originated by the United States in partnership with one or more Foreign Governments and the records or information are owned in partnership. It is our policy in the Army and I believe the same thing is true in the other departments that whenever any request comes in involving a foreign originated document or a document of combined origin, as we call the term, we will ask the Foreign Government for declassification action if the United States Government's position is that the content of the document warrants declassification. We do that every day. Some Foreign Governments respond beautifully. In other Foreign Governments it takes a little longer. If I were you asking for declassification of Foreign Governments documents, I would not hold my breath for the declassification immediately of those documents.

Mr. Garrett:

I'd like to mention that the Joint Chiefs of Staff has convened a declassification group. They have reviewed all combined Chief of Staff records from World War II, some 240,000 documents and only 21,000 of those documents still remain classified. I believe I can say that practically all of those are classified because they contain information that the British or the French wish to remain classified. I think this is true. But there is action taken all the time, as Joe mentioned, to obtain a review by the foreign originator.

Mr. Kincaid:

This question is addressed to Mr. Tufaro. Charges are made on requests for documents under the Freedom of Information Act. Should the requester

be charged for documents under EO 11652? In those cases where documents are passed on to a Governmental agency for review and returned to NARS, who collects a fee, if any?

Mr. Tufaro:

In the review process we are required by statute to charge for the cost of locating the document and at the last meeting of our committee we were exploring the question of whether or not, in addition to the charge related to the cost of locating the document, there should be a charge for cost of reviewing the document. That question is being resolved. Certainly it is appropriate to charge for the cost of reproducing the document. In fact, the individual is asking the Government to do a part of his private research work and it costs the Government money, and he's making money on it because most of the people who are interested in this are historians or journalists or people writing books. So the cost is appropriate. I'm not acquainted with the specific policy of the Archives on this matter so I couldn't properly answer it. Really, we're talking about two different subjects. One is the declassification and the other one is the release. They are separate. If the individual wants to come to the office and read the papers then the only cost he has to pay is the location cost. If he wants a copy reproduced for his own possession then he pays a reproduction cost.

Mr. Kincaid:

We have questions which are not designated to any particular individual, so I'll ask for volunteers or maybe we'll have to point a finger at somebody. First one: Excluded from automatic downgrading, that's one term, and the second term--Exempted from automatic downgrading. Please explain the difference. Excluded from automatic downgrading--Exempted from automatic downgrading. Don, do you want to answer that?

Mr. Simon:

Well, first of all the exemption from the General Declassification Schedule is provided in Executive Order 11652, and it applies to all documentation prepared today which widens the cart which determines declassification. Excluded is applied only to old material or new material prepared on the basis of old guidance or old source material. It calls for group one, two or three. Essentially, there is very little difference between excluded and exempted in the long run. All of that material is subject to the ten year and 30 year review requirements. All of that material is required to be reviewed, should be reviewed periodically for current downgrading declassification and certainly when it is retired it should be reviewed for declassification. So in that respect there is really not much difference. I think it might be useful if Joe Gorman told us how they were handling it at the Atomic Energy Commission, if you wouldn't mind.

Mr. Gorman:

All our documents are exempt under category 2, under the AEC Act and in marking restricted data automatically means exempt. This represents

as high as 85, 90 and possibly 95 percent of our documents. We, like DOD, have no figures on the number that are exempt, but its at least up to 85 percent.

Mr. Tufaro:

I meant that, Joe, what are you doing on your old group markings, group 1 through 4. Do you follow the same procedures as Defense when a new document is originated which uses information in one classified under the old Executive Order?

Mr. Gorman:

I must confess ignorance on this Dick, I do not know just how we handle this.

Mr. Kincaid:

Does a department that formerly had classification authority up to Top Secret, but now has no classification authority, have authority to downgrade or declassify those documents we classified ourselves? As I understand the question, the agency once had authority to classify and did so, but does not have that authority now, but can they still declassify the documents which they originally classified.

Mr. Tufaro:

Not only can -- must. They are charged with that responsibility.

Mr. Kincaid:

Is it correct that all confidential documents that are three years old as of July 1, 1972 are automatically downgraded? And when will the new DOD Industrial Security Manual be available?

Mr. Garrett:

No, all confidential documents, three years old are not automatically downgraded. Downgraded is the wrong term, confidential can only be declassified. We make a distinction between downgrading which is from one level of classification to unclassified. There is no rule that all confidential documents are declassified if they are at least three years old. No, there is no such rule. On the Industrial Security Manual the changes which are necessary to bring it into compliance with 11652 are, I believe, about ready for signature to go to the printer. We hope to have them distributed early in January. There have been what you would call interim instructions on downgrading declassification and marking and that is the part that effects industry mainly. Since they have no authority to classify.

I have a card with really three questions, but I'll read all of them. What are the different agencies doing to implement data index? Is permanent accountability of all record copies of confidential documents required? Can a record copy of any such document be destroyed? What are the different agencies doing to implement the data index? I think Mr. Tufaro touched on that. Do you have any further comments you would like to make? /

Mr. Tufaro:

Well, the data index really varies from department to department. It depends upon the volume of the classified documents involved. In some cases it is nothing more than a simple log of those documents which are originated by the department. In some cases where the volume is high it involves the use of very sophisticated computer equipment to make an index entry for all documents that are classified. The kinds of equipment and the kinds of systems being used vary from department to department. No standards have been imposed. The only standards being opposed are on the input and the output requirements and there are retrieval capabilities of the system. But other than that they vary and they vary quite widely. The stage of implementation also varies. Some will be effective December 31, some will be effective in phases over the next year, year and a half, two years.

Mr. Kincaid:

I believe the next two questions are related to each other. Is permanent accountability of all record copies of confidential documents required? Can a record copy of any such document be destroyed? Joe Pomrenze, you should be able to answer that.

Mr. Pomrenze:

The answer to the last question is, of course, any document can be destroyed if according to the Federal Records Act it no longer has any administrative, legal, fiscal, etc. value for further preservation. And as for the question before that, the Army has now no requirements for any accountability for any confidential materials. I'm not sure what the question relates to. If it relates to the data index system, the data index requires the documents entered into the index will be maintained in the index until the document is destroyed or declassified and published in what would go on an annual declassification list, so if it is a confidential document which doesn't have permanent retention value and is, therefore, destroyed, it would be destroyed without consequence for the data index. The retention standards remain the same, so that's not varied by the data index. But we do not have a requirement for accountability for confidential in the Department of Defense.

Mr. Kincaid:

This is the last question we'll have time for. Can agencies not having Top Secret authority refuse to exempt records originated at the request of outside organizations? If not, how can this difficulty be overcome when the outside agency requests an exemption or the information obviously should be exempted?

Mr. Tufaro:

An agency not having Top Secret authority has no authority to exempt. It can carry forward an exemption category reflected on a document originated in another agency, but in terms of information it originates it has no authority to exempt.

Mr. Kincaid:

I am sorry to call time with questions still remaining. Perhaps those of you whose questions were not answered may be able to get the personal attention of one of these gentlemen, either after this meeting or at some future time and get the answers to your questions. Let me just say that beginning with the announcement which we sent out for this meeting, we have a new policy that on these announcements we are going to announce not only the meeting at hand but the one following that approximately a month later.

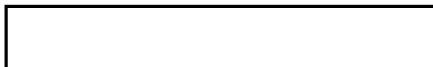
May I express our appreciation to our speakers and to our panelists. May I also express appreciation to you for not letting your interest in your professional development -e dampened by this very inclement weather. A joyous season and a very happy and successful New Year to all of you.

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MEMORANDUM FOR:



Attached in draft is a suggested note from  
you to Mr. Colby regarding our classification  
problem.



15 Nov 72

(DATE)

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DRAFT  
15 November 1972

MEMORANDUM FOR: Executive Director-Comptroller

Bill:

I have taken to heart your comments regarding the confidential classification on the Language Highlights booklet. As I am sure you appreciate, that Publication was largely focussed on DDP interests, and for DDP consumption. Which brings me to the point: we in the Support Directorate find ourselves being pulled in two directions in the classification arena. On the one hand we subscribe completely to EO 11652, HR  and the guidance which you and Mr. Donnalley provide on classification matters. It is no secret that we have an opposite force stemming from DDP sensitivities which operate at times toward overclassification. These sensitivities were manifest in the objections raised to our recent publication of unclassified bulletins on UBLIC, medical health and the Credit Union, as well as the DDP proposal to classify blank forms intended for use abroad.

You may rest assured that the Support Directorate will continue to press for literal interpretation and application of the provisions of HR  as we classify (or do not classify). Nonetheless, I do not expect the DDP sensitivity on classification



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matters to go away. Even with our best exercise of classifying judgment I am confident that we will encounter DDP pressure to classify materials for which, in our view, security classification is not appropriate.

In summary, through education, correction, and discipline, we can and will reduce the incidence of inadvertent overclassification. We probably still will encounter problems trying to meet security requirements of one of our big customers, DDP, while fully observing the dictates of HR

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J. W. Coffey

**ADMINISTRATIVE**

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JOURNAL

OFFICE OF LEGISLATIVE COUNSEL

Wednesday - 6 September 1972

E-X-T-R-A-C-T

25X1 "2. (Confidential - JGO) Mr. Robert Blum, Senate Foreign Relations Committee staff, visited Headquarters from 10:00 to 12:00 to begin study of the OSS files of activities in Indochina following World War II. Files were made available to him in one of the interview rooms adjoining the main reception room. Mr. Blum will return again tomorrow at 10:00 a.m. for further study of the files. [ ] has been advised.

"3. (Unclassified - PLC) A meeting was held with Bill Phillips, Jim Kronfeld, and Norm Cornish, staff members of the Foreign Operations and Government Information Subcommittee, House Government Operations Committee, to discuss the Agency's implementation of Executive Order 11652 on classification. I briefly described the Agency's procedures and the regulations issued implementing the Executive Order, and explained that the Agency's regulations were internal and could not be made available to the Committee. They understood and will accept as the Agency's unclassified regulations the procedures for the Agency's handling of outside requests for information as recently published in the Federal Register. We further agreed that a letter from the Agency as to the implementation of the Executive Order would not be necessary."

/s/

JOHN M. MAURY  
Legislative Counsel

E2 APDCI  
CL BY Signer

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